

Before the
Federal Communications Commission
Washington, D.C. 20554

Nextel Communications, Inc. and)	
Nextel Partners, Inc.,)	
)	
Complainants,)	
)	
v.)	File No. EB-02-MD-036
)	
David M. Allen and Allen Wireless Group,)	
)	
Defendants.)	

ORDER

Adopted: January 21, 2003

Released: January 23, 2003

By the Chief, Market Disputes Resolution Division, Enforcement Bureau:

1. On November 18, 2002, Nextel Communications, Inc. and Nextel Partners, Inc. ("Nextel") filed with this Commission a formal complaint against David M. Allen and Allen Wireless Group ("Allen") pursuant to section 208 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 208. The complaint alleged, *inter alia*, that Allen had refused to negotiate in good faith with Nextel for the relocation of Allen's "upper 200" channel 800 MHz facilities, in violation of section 90.699 of the Commission's rules, 47 C.F.R. § 90.699.

2. On January 17, 2003, Nextel filed a Motion to Dismiss Complaint Without Prejudice ("Motion to Dismiss")¹ which stated that the parties had entered into a settlement pursuant to an Asset Exchange Agreement under which Allen's "upper 200" 800 MHz licenses will be relocated in accordance with 47 CFR §90.699. The Motion to Dismiss further stated that counsel for Allen had reviewed the motion, and had consented to it on Allen's behalf.

3. We are satisfied that dismissing the complaint will serve the public interest by promoting the private resolution of disputes and by eliminating the need for further litigation and the expenditure of further time and resources of the parties and this Commission.

4. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 208 of the

¹ Motion to Dismiss Complaint Without Prejudice, *Nextel Communications, Inc. and Nextel Partners, Inc. v. David M. Allen and Allen Wireless Group*, File No. EB-02-MD-036 (filed Jan. 17, 2003).

Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that the Motion To Dismiss the above-captioned complaint IS GRANTED.

5. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that Nextel's formal complaint against Allen IS DISMISSED WITHOUT PREJUDICE.

FEDERAL COMMUNICATIONS COMMISSION

Alexander P. Starr
Chief, Market Disputes Resolution Division
Enforcement Bureau